



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,820	04/18/2005	Adolf Feinauer	2002P01222WOUS	6107
46726 7590 04/16/2007 BSH HOME APPLIANCES CORPORATION INTELLECTUAL PROPERTY DEPARTMENT 100 BOSCH BOULEVARD NEW BERN, NC 28562			EXAMINER ALI, MOHAMMAD M	
			ART UNIT 3744	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/16/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/531,820

Applicant(s)

FEINAUER ET AL.

Examiner

Mohammad M. Ali

Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 34-37 is/are allowed.
- 6) ☒ Claim(s) 15-21, 24-30 and 33 is/are rejected.
- 7) ☒ Claim(s) 22, 23, 31 and 32 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Art Unit: 3744

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15, 16, 18 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by James (GB 389535 A). James discloses a refrigerating device comprising an exterior door 40; a storage compartment 33; an exterior hollow-walled housing 36-38 (Examiner considers the exterior wall portion consists of shell 36, asbestos 38 and outer casing 37) forming a hollow chamber 35 surrounding the storage compartment 33; and a vacuum pump having an electric motor 45 connected via a suction line 44 to both the storage compartment 33 and the hollow chamber 35; a non-evacuatable storage chamber 60; a switching valve 46/48/59; automatic thermal switches 54 and 56; thermometers 52 and 53 and pressure gauge 51. see Fig. 9, page 3, line 35 to page 4, line 130.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3744

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 17, 19-21, 24-27, 29-30 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over James in view of Taragan et al., (6,090,422). James discloses the invention substantially as claimed as stated above except a pressure sensor. Taragan et al., teach the use of a pressure sensor 84 coupled to a control timer 85 in an evacuable compartment of refrigerator 10 for the purpose of controlling evacuation pressure of the compartment. See 1 and 4 and column 5 line 49 to column 6, line 62. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the refrigerating device of James in view of Taragan et al., such that a pressure sensor could be provided in order to control the vacuum pressure of the compartment. Regarding claims 24-27, although James does not disclose loose filling of a support material in the hollow walled chamber but James teaches to use supports of porous member 39 in the hollow-walled chamber 3.

Allowable Subject Matter

Art Unit: 3744

Claims 22-23 and 31-32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 34-37 are allowed.

Response to Arguments

Applicant's arguments filed 03/12/07 have been fully considered but they are not persuasive. The Applicant argued, "Applicants respectfully submit that James does not teach or suggest all of the elements recited by amended independent Claim 15. Particularly, James does not teach or suggest, among other things, a vacuum pump connected via a suction line to both a storage compartment and a hollow chamber formed by an exterior hollow-walled housing. Conversely, James teaches pump connections 42 and 43 opening into a storage chamber 33 and an inner space 35 respectively. The exterior hollow-walled housing formed between shell 36 and outer casing 37 is filled with a non-conducting filling 38 and there is no teaching or disclosure of connection of a pump or exhaustor to this housing, and Applicants respectfully submit that such an arrangement would obviate the functionality intended in James." The Examiner disagrees. The Examiner considers as stated above that shell 36, outer casing 37 along with the filled non-conducting filling 38 as a composite part of the exterior portion of the hollow chamber 35 and thus meet the claimed element. Therefore, rejections are proper. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 3744

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad M. Ali whose telephone number is 571-272-4806. The examiner can normally be reached on maxiflex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on 571-272-4808. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3744

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


MOHAMMAD M. ALI
PRIMARY EXAMINER